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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	
)	No. 1:22-cr-00031-DKW
Plaintiff,)	
)	DEFENDANT'S SIXTH
v.)	MOTION IN LIMINE (TO
)	EXCLUDE EVIDENCE
LINDSEY KINNEY,)	CONCERNING RO1 AND
)	RO2)
Defendant.)	

I. Introduction and Background Facts

Mr. Kinney is charged by Superseding Indictment with posting threats to kill on Instagram on January 17 and March 28, 2022. Docket Sub. No. 47 (Superseding

Indictment). The government alleges these Instagram posts were directed toward five known individuals identified in the indictment as Victims 1-5. The government also seeks to introduce evidence concerning other individuals, including a daughter

and father identified herein as RO1 and RO2 respectively. Docket Sub. No. 60 at 4 ¶ 8-9.

RO1 is a self-described “Hawaiian activist” involved in a custody dispute with her ex-husband. In the Fall of 2021, RO1 claims that her husband took two of her three children and refused to give them back to her. RO1 claims that Mr. Kinney helped her husband hide her children and threatened her on multiple occasions. These claims are disputed.

Both RO1 and her father have claimed numerous offenses which they attribute to Mr. Kinney, directly or indirectly. In particular:

- a video depicting Mr. Kinney at a gun range made RO1 fear for her safety and that of her children;
- RO1's friend once saw rifles and tactical vests at Mr. Kinney's property;
- RO1 was told Mr. Kinney and someone else once walked around her home with cameras while she was not present;
- RO1 is suspicious of 'stares' that others would give her and concerned the staring persons may be acting on Mr. Kinney's behalf;
- RO1 has found nails in her vehicle tires; and
- RO1 claims Mr. Kinney is a “hitman” whom she believes “would come to her house and shoot through the windows in an attempt to kill her or her

children.”

RO2 has echoed many of his daughter's reports. RO2 has additionally reported:

- a lock was cut in a parking lot across from his residence and he was concerned this could have been the work of Mr. Kinney or his followers;
- on March 10, 2022, he was followed by an unknown vehicle;
- Mr. Kinney operated a chicken fighting ring;
- Mr. Kinney paid off Honolulu Police Department officers; and
- an unnamed Honolulu Police Department Sergeant told him Mr. Kinney “was a star witness for the Miske case and there was nothing they could do” about his alleged threats.

RO2 has produced screenshots of messages purportedly with Mr. Kinney detailing Mr. Kinney's 'threats' toward him. These messages provide:

RO2: My daughter is not with him so I don't know why you keep playing all the stupid videos when you don't really know what's going on and MikeMitski We don't even know that fucker you playing with my family you will go down one day legally I promise to God

@cant.
stop.
cowboy: I know the truth IO dont lie..this is why your family left after mms went down..running from the wrongs they did..u praying to the wrong guy..truth will come to light..fear don't live here..tricks are for kids

@cant.
stop.
cowboy: All that u love will burn..Freemasons Illuminati runs deep in your family..trader to your bloodline..this is not Rome..this is Hawaii..we will take back what is rightfully ours..what was never to be sold..we are the children of the light..good luck with trying to take me down..your gonna need it

RO2: Brother you are talking so much fucking nonsense it's not even funny again we don't know fucking Eminem we are hard-working family I'm a hard-working fucking dad never sold drugs or any of that bullshit in my life and we are not related to Robert Oppenheimer the bomb builder so that's another full of shit story did you post fucking games bro fucking games we just want peace in our family that's it

II. Argument

The admissibility of evidence of other bad acts is governed by Federal Evidence Rules 403 and 404(b) as outlined in Mr. Kinney's third, fourth, and fifth motions in limine. This argument is incorporated by reference herein.

RO1 and RO2 have indicated that they felt threatened by all sorts of communications and events they associate with Mr. Kinney. But their interactions with Mr. Kinney (real or imagined) do not tend to prove that Mr. Kinney transmitted true threats in interstate commerce against Victims 1-5 on January 17 and March 28, 2022. There is insufficient evidence to support a finding that Mr. Kinney even committed many of the acts about which they complain. Many of these acts are not at all similar to the charged offenses. There is a serious danger that admitting RO1's allegations against Mr. Kinney will necessitate presentation of evidence concerning the merits of her custody dispute, her husband's actions concerning the same, and Mr. Kinney and others' involvement therewith. Such evidence presents a serious risk of wasting time and confusing the issues.

Moreover, RO1 is a mother who claims her young children were essentially kidnapped and secreted away from her for months. The idea that Mr. Kinney was somehow responsible is extremely prejudicial. Evidence of other acts concerning Mr. Kinney and RO1/RO2 should not be admitted.

III. Conclusion

The government's attempt to bolster its case with other evidence concerning RO1 and RO2 runs afoul of Federal Rules of Evidence 402, 403, and 404(b). Such evidence should not be admitted at Mr. Kinney's trial.

DATED this 22nd day of November, 2022.

/s/ Cassandra Stamm
Law Offices of Cassandra Stamm, LLC

CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2022, I electronically filed the foregoing Sixth Motion in Limine with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the Government.

/s/ Cassandra Stamm
Law Offices of Cassandra Stamm, LLC